

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
1998 Biennial Regulatory Review -)
Streamlining of Radio Technical Rules in)
Parts 73 and 74 of the Commission's Rules)

MM Docket No. 98-93

To: The Commission

**COMMENTS OF CENTRAL VIRGINIA EDUCATIONAL
TELECOMMUNICATIONS CORPORATION**

Central Virginia Educational Telecommunications Corporation ("CVETC"), the licensee of noncommercial educational station WCVE-FM, Richmond, Virginia, hereby submits these comments in response to the Commission's *Notice of Proposed Rule Making and Order* in the above-captioned proceeding. FCC 98-117, released June 15, 1998 ("*NPRM*").

As set forth more fully in the Engineering Report attached hereto as Exhibit A, CVETC currently has an application pending before the Commission to increase WCVE-FM's effective radiated power from 8.3 kW to 17.5 kW. *See* FCC File No. BPED-971202IB. Under the Commission's current rules, this upgrade application cannot be granted because it is mutually exclusive with an application for a new, noncommercial educational FM station in Mathews, Virginia. *See* FCC File No. BPED-971015MB. This new station application is one of nine mutually exclusive applications for a new station on Channel 206 in the Cape Charles, Virginia area. Accordingly, this new station application and, consequently, CVETC's upgrade application, will be frozen until such time as the Commission determines how to resolve mutually exclusive applications involving noncommercial applicants.


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CVETC believes that the potential increased listenership which would result from the proposed increase in the WCVE-FM facilities far outweighs the potential new area of interference from the proposed new Mathews station. Thus, CVETC would be willing to accept any interference to the upgraded WCVE-FM facilities from the proposed Mathews station. Accordingly, it supports the Commission's proposal in the *NPRM* to permit a broadcast station to elect to receive interference from an authorized station in connection with a unilateral extension of its service contour. In light of its current situation, however, CVETC urges the Commission to go one step further and allow stations seeking to unilaterally extend their service contour to agree also to the receipt of interference within their protected service contour from facilities either authorized in a construction permit or proposed in a pending application.

Respectfully submitted,

**CENTRAL VIRGINIA EDUCATIONAL
TELECOMMUNICATIONS
CORPORATION**

By: 

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Its Attorneys

Dated: October 20, 1998

**ENGINEERING REPORT
ON BEHALF OF
CENTRAL VIRGINIA EDUCATIONAL
TELECOMMUNICATIONS CORPORATION
IN SUPPORT OF ITS COMMENTS
MM DOCKET NO. 98-93**

OCTOBER 1998

**COHEN, DIPPELL AND EVERIST, P.C.
CONSULTING ENGINEERS
RADIO AND TELEVISION
WASHINGTON, D.C.**

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington)
) ss
District of Columbia)

Warren M. Powis, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer of the University of Canterbury, New Zealand, a Registered Professional Engineer in the District of Columbia, the State of Virginia, the State of South Carolina, and Vice President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005; previously employed for 15 years with the New Zealand Broadcasting Corporation; a member of the Institution of Professional Engineers New Zealand (IPENZ), the Association of Federal Communications Consulting Engineers (AFCCE), and the National Society of Professional Engineers (NSPE).

That his qualifications are a matter of record in the Federal Communications Commission;

That the attached engineering report was prepared by him or under his supervision and direction and,

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.

Warren M. Davis

Warren M. Powis
District of Columbia
Professional Engineer
Registration No. 8339

Subscribed and sworn to before me this 19th day of October, 1998.

Carl L. Bryan
Notary Public

My Commission Expires: 2/28/2003

This engineering statement has been prepared on behalf of Central Virginia Educational Telecommunications Corporation (CVETC) in support of its comments in MM Docket No. 98-93, In the Matter of 1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules. On June 11, 1998, the Commission adopted a Notice of Proposed Rule Making and Order in the above-captioned Docket. CVETC's comments relate to the items of negotiated interference and a unilateral application to extend the service contour such that it overlaps the interfering contour of another station (see Paragraphs 21 and 22 of the NPRM).

CVETC is the licensee of non-commercial educational station WCVE-FM, Channel 205B (88.9 MHz), Richmond, Virginia. In 1997, WCVE-FM applied to increase effective radiated power from 8.3 kW to 17.5 kW (FCC File No. BPED-971202IB). CVETC's application is mutually exclusive under the current rules with one of nine mutually exclusive pending applications for Channel 206 (89.1 MHz) in and around the Cape Charles, Virginia area. Accordingly, CVETC supports the concept that a station's unilateral proposal to extend its own service contour be permitted if it receives interference from either an authorized station, a construction permit, or a pending application. CVETC's proposal reflects its determination that it will substantially expand its current service area and that the resulting increase in served population far out weighs the potential new area of received interference. Furthermore, if the pending mutually exclusive application in question is returned due to grant of one of the other eight applications, the full increase in potential listenership will be achieved due to the return of the single application. On the other hand, if that single application prevails, CVETC has voluntarily relinquished service within that interfering area.

WCVE-FM has been operating for many years with an ERP of 8.3 kW, the maximum permitted under Section 73.525 of the FCC Rules and Regulations concerning collocation with TV Channel 6. Since WCVE-FM uniquely operates from the WTVR-TV, Channel 6 antenna, operation at the proposed 17.5 kW level will not cause interference to the reception of WTVR-TV and will provide WCVE-FM with increased listenership.

CVETC, therefore, supports the FCC's proposal for unilateral power increases, whereby, the station can elect to receive an area of interference. However, CVETC believes that the FCC's proposal requires expansion to permit received interference from construction permits and pending applications.